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Attorney for Defendants, The City of Millville, Chief of Police
Jody Farabella, K-9 Officer Michael Calchi, Officer Gavin
Phillips, and Officer Jeffrey Profitt, Jointly, Severally, and in
the Alternative

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY - CAMDEN**

The Estate of Joey Myers and
Carolyn K Chaudry, as
Administrator ad Prosequendum of
the Estate of Joey Myers, and in
her own right

Plaintiffs

v.

CITY OF MILLVILLE;
CHIEF JODY FARABELLA,
Individually and in his
official capacity;
OFFICER MICHAEL CALCHI;
OFFICER GAVIN PHILLIPS;
OFFICER JEFFREY PROFITT; and,
JOHN DOE POLICE OFFICERS 1-10,
Individually and in their
official capacities
Defendants

Civil Action
17-cv-01411 (JHR/AMD)

**AFFIDAVIT IN SUPPORT OF
CONSENT DISCOVERY CONFIDENTIALITY/ PROTECTIVE ORDER**

STATE OF NEW JERSEY
COUNTY OF CUMBERLAND

:
: ss.
:

I, Jody Farabella, being duly sworn according to law, upon my oath, depose and say:

1. I am the Chief of Police of the City of Millville Police Department, and have served in that capacity since September of 2015.

2. The City of Millville, myself as Chief of Police, K-9 Officer Michael Clachi, Officer Gavin Phillips, and Officer Jeffrey Profitt are Jointly, Severally, and Alternatively named Defendants in the above-captioned matter.

This Affidavit was prepared for the purpose of complying with Federal Rule of Civil Procedure Local Rule 5.3 pertaining to the confidentiality of discovery materials.

3. The Plaintiff has either asked for the following documents, or these documents may be produced for purposes of provide a defense on behalf of the Defendants:

- a. Internal Affairs files regarding this incident or other related incidents which are the subject of this litigation;
- b. Personnel Files of members of the City of Millville and the Millville Department, which may include training materials, certificates, administrative material, matters sent to or from the New Jersey Department of Personnel, and medical information;
- c. Psychological reports, records, and any related

treatment notes of any party in this case;

- d. Incident Reports, police radio logs, dispatch computer records, or tapes made by the City of Millville Police Department related to this matter which contain records which are subject to strict confidentiality;
- e. Internal Policies and Procedures, and training materials, used by the City of Millville Police Department; and,
- f. Standing Orders and General Orders published by the City of Millville Police Department.

4. There are numerous private and public interests which warrant that the requested information/ documentation remain confidential and not be made public record.

5. For the reasons which are more fully set forth below, the Defendants respectfully request that the documents identified above be produced pursuant to a Consent Discovery Confidentiality/ Protective Order, and not be made public record.

6. There is obviously a significant public interest in maintaining the confidentiality of police personnel records. They are essential to the development of complete and accurate information of members of the police department. Proper supervision of the Police Department demands a thorough investigation of a police officer's background before appointment,

and accurate records relating to his performance after appointment.

7. People charged with the responsibility of conducting the affairs of the police department must be able to rely on confidential information prepared for internal use. The integrity of this information would be eroded if public exposure were threatened. State v. Kaszubinski, 177 NJ Super. 136, 138-139 (Law Div. 1980).

8. It is requested that the internal affairs files pertaining to the Plaintiff, or any other internal affairs files which are relevant to this case, be ordered to be kept confidential because releasing such documents could thwart governmental processes by discouraging citizens and other police officers from giving the government or the Internal Affairs Department of this Police Department information critical to its investigations. As a general rule, the public disclosure of internal affairs documents could significantly harm and impact people who gave information in this case.

9. The concern for confidentiality is expressed by the State of New Jersey, via Executive Order No. 48 (Hughes), which

provided that all internal affairs investigations and supporting material are considered to be confidential information, authorized to be released only by the Police Executive.

10. Release of internal affairs documents as public record could thwart the level of government self-evaluation and consequential program improvement.

11. The internal affairs files are evaluative and, at times, self-critical of the police department. Again, release of such information to the public-at-large as public record could thwart these types of processes in the future.

12. To the extent that the Court orders the release of documents listed in paragraph 3(a) through 3(f) above, the Defendants, the City of Millville, myself as Chief, K-9 Officer Michael Calchi, Officer Gavin Phillips, and Officer Jeffrey Profitt, request that these documents be produced pursuant to a Consent Discovery Confidentiality/ Protective Order, and not be made public record, so that the confidentiality of the individuals detained or questioned in these incident reports may be maintained.

13. According to NJSA 47:1A-3, certain personal information regarding a suspect in a criminal investigation may be released "if any arrest has been made." Many of the records requested by

Plaintiff in 3(a) through 3(f) are not arrests. Thus, the personal information requested could fall under NJSA 47:1A-3(a)-(i) as information which would otherwise be inappropriate to be made public record.

14. The Defendants, the City of Millville, K-9 Officer Michael Calchi, Officer Gavin Phillips, and Officer Jeffrey Profitt, are not seeking to withhold production of these documents in this case, only to produce them pursuant to a Consent Discovery Confidentiality/ Protective Order pursuant to FRCP 5.3, which will limit their use to this case only and not make them matters of public record.

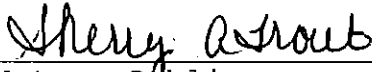
15. I have reviewed the documents which the Defendants, the City of Millville, myself as Chief, K-9 Officer Michael Calchi, Officer Gavin Phillips, and Officer Jeffrey Profitt, wish to release; and, I affirm that release of these records as public record could, or will, cause the harm noted above.

I swear that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.



Jody Farabella
Chief of Police/ City of
Millville Police Department

Sworn to and subscribed before
me this 30th day of
October, 2017



Notary Public
My Commission Expires:

Sherry A Trout
Notary Public
New Jersey
My Commission Expires 4-13-2020